

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeenn G. Kelly.

Tennessee Gas Pipeline Company and  
National Fuel Gas Supply Corporation

Docket Nos. CP05-352-000

Tennessee Gas Pipeline Company

CP05-355-000  
CP05-355-001

ORDER ISSUING CERTIFICATE AUTHORIZATIONS

(Issued December 29, 2005)

1. On May 16, 2005, in Docket No. CP05-352-000, Tennessee Gas Pipeline Company (Tennessee) and National Fuel Gas Supply Corporation (National Fuel) jointly filed an application under section 7 of the Natural Gas Act (NGA) for certificate authorization to modify an existing dehydration tower serving the Hebron Storage Field (Hebron) in Potter County, Pennsylvania, to increase deliverability by approximately 63,900 Dth/d, from approximately 438,000 Dth/d to 502,000 Dth/d. On the same day, in Docket No. CP05-355-000, Tennessee filed a companion application under NGA section 7 for certificate authorization to (1) expand capacity on its Line 300, located in Bradford and Susquehanna Counties, Pennsylvania, by building six miles of loop line; (2) add compression facilities at its existing Compressor Station 313 in Potter County, Pennsylvania, and at its existing Station 317 in Bradford County, Pennsylvania; (3) upgrade its existing Ramsey Meter Station in Bergen County, New Jersey; and (4) use additional incremental capacity resulting from the replacement of compression facilities at Station 325 in Sussex County, New Jersey.<sup>1</sup> Tennessee states that the proposed modifications will enable it to provide up to 50,000 Dth/d of incremental firm transportation capacity and 51,500 Dth/d of incremental storage deliverability at Hebron.

---

<sup>1</sup> On September 23, 2005, in Docket No. CP05-355-001, Tennessee filed an amendment to its application, modifying the capital costs allocated to portions of its proposed expansion project and reducing the projected cost of service.

2. As discussed below, we find that the proposed expansion is required by the public convenience and necessity, and we will therefore issue the requested authorizations.

**I. Background and Proposal**

3. Tennessee and National Fuel are jurisdictional natural gas companies primarily engaged in the business of transporting and storing natural gas in interstate commerce. Tennessee's mainline transmission system extends from the Mexican border to Canada, with facilities located in Texas, Louisiana, Arkansas, Mississippi, Alabama, Tennessee, Kentucky, West Virginia, Ohio, Pennsylvania, New York, New Jersey, Massachusetts, New Hampshire, Rhode Island, and Connecticut. National Fuel's facilities are located in New York and Pennsylvania.

4. In Docket No. CP05-352-000, Tennessee and National Fuel propose to increase the deliverability from approximately 438,000 Dth/d to approximately 502,000 Dth/d at their jointly-owned Hebron Storage Field by enhancing the capability of a dehydration tower facility serving the storage facility. Specifically, the applicants propose to enhance the dehydration tower's capability by (1) replacing the existing valve trays within the gas-glycol contactor with structured packing, which will enable the facility to be able to process increased amounts of gas, and (2) by installing a thermal oxidizer to minimize the potential of venting heavy hydrocarbon vapors while operating at an increased capacity.<sup>2</sup> The applicants state that while the proposed modifications will boost deliverability, storage capacity will remain unchanged. The applicants intend to share the incremental increase in deliverability of approximately 63,900 Dth/d consistent with their percentages of deliverability; this will result in approximately 51,500 Dth/d of additional delivery capacity for Tennessee and approximately 12,400 Dth/d for National Fuel. The applicants estimate the total cost of the proposed modifications will be approximately \$284,175, absent an allowance for funds used during construction (AFUDC). Tennessee's share is estimated to be \$228,220, and National Fuel's share is estimated to be \$55,954.<sup>3</sup>

---

<sup>2</sup> Tennessee and National Fuel contend that they might have undertaken the proposed modifications under section 2.55(a) of the Commission's regulations as an auxiliary installation, but for the increase in deliverability that will result. We note that on February 2, 2005, Tennessee filed under section 2.55(b) to replace two gas-driven compressor units with one electric unit at its Station 317 in order to meet reliability demands.

<sup>3</sup> See Tennessee's and National Fuel's joint Application in Docket No. CP05-352-000, Exhibit K (May 16, 2005).

5. Tennessee will commit its 51,500 Dth/d of additional Hebron storage delivery capacity to the Northeast ConneXion – NY/NJ Project (ConneXion) pipeline expansion proposed in Docket Nos. CP05-355-000 and -001. The ConneXion Project will add 50,000 Dth/d of incremental firm transportation capacity and 51,500 Dth/d of incremental storage deliverability, thereby increasing Tennessee’s ability to withdraw gas from Hebron and move it east along Tennessee’s existing Line 300 to markets in the northeast. Following a reverse open season and open season, Tennessee and Public Service Electric and Gas Company (PSEG) executed two precedent agreements, each for a ten-year term, for firm services for all of Tennessee’s transportation and Hebron deliverability capacity that will result from the proposed expansion.

6. The proposed ConneXion Project will include: (1) construction of approximately 2.0 miles of 30-inch pipeline, looping Tennessee’s Line 300 in Bradford County, Pennsylvania, starting at Station 317 and ending near the McGlenn Road crossing in Granville Township; (2) construction of approximately 4.0 miles of 30-inch pipeline, looping Tennessee’s Line 300, starting near Township Route 392 in Springville Township, Susquehanna County, Pennsylvania, and ending at State Route 167 in Lenox Township, Susquehanna County, Pennsylvania; (3) adding a 2,370 hp gas-driven compressor at Station 313 in Potter County, Pennsylvania;<sup>4</sup> (4) uprating an electric-driven compressor unit at Station 317 from its current certificated 6,330 hp to 13,400 hp; (5) upgrading Tennessee’s Ramsey Meter Station in Bergen County, New Jersey, by replacing a 4-inch ultrasonic meter with an 8-inch ultrasonic meter and replacing approximately 250 feet of 8-inch station piping with 16-inch station piping; and (6) the use of additional incremental capacity resulting from the replacement of compression facilities at Station 325 in Sussex County, New Jersey. Tennessee estimates its proposed ConneXion Project will cost approximately \$38.8 million.

## **II. Notice and Interventions**

7. Notices of Tennessee’s and National Fuel’s application in Docket No. CP05-352-000 and of Tennessee’s application in Docket No. CP05-355-000 were published in the

---

<sup>4</sup> Tennessee states that it initially installed 16,200 hp at Station 313 in the 1950s, 10 FPC 1047 (1951), added 2,000 hp in 1984, and now uses Station 313 to facilitate storage at Hebron and to compress gas for transportation on Tennessee’s mainline. Tennessee explains that the 2,370 hp gas-driven compressor that it proposes to install at its Station 313 will be used for mainline compression.

*Federal Register* on June 1, 2005.<sup>5</sup> Notice of Tennessee's amended application in Docket No. CP05-355-001 was published in the *Federal Register* on October 3, 2005.<sup>6</sup>

8. In Docket No. CP05-352-000, timely, unopposed motions to intervene were filed by Atmos Energy Corporation; John R. Barr; Chattanooga Gas Company; KeySpan Delivery Companies; New England Local Distribution Companies; National Fuel Gas Distribution Corporation; and PSEG.<sup>7</sup>

9. In Docket Nos. CP05-355-000 and -001, timely, unopposed motions to intervene were filed by Atmos Energy Corporation; John R. Barr; Chattanooga Gas Company; Central New York and Gas Company, LLC jointly with eCORP Marketing, LLC;<sup>8</sup> KeySpan Delivery Companies; John P. & Kristina A. Kanta; National Fuel Gas Distribution Corporation; National Fuel Gas Supply Corporation; New England Local Distribution Companies; New Jersey Natural Gas Company; NJR Energy Services Company; ProLiance Energy, LLC; PSEG; and the Tennessee Customer Group. Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. jointly filed an untimely motion to intervene, which we will grant, as we find that to do so will not delay, disrupt, or otherwise prejudice this proceeding or the parties thereto.

### **III. Discussion**

10. Because the applications pertain to facilities to transport natural gas in interstate commerce, the construction and operation of the proposed facilities are subject to the jurisdiction of the Commission and to the requirements of NGA section 7(c).

11. In order to determine whether a proposed project is required by the public convenience and necessity, we consider whether the proposal meets the criteria set forth

---

<sup>5</sup> 70 *Fed. Reg.* 31,438 (2005).

<sup>6</sup> 70 *Fed. Reg.* 57,585 (2005).

<sup>7</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214.18 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2005).

<sup>8</sup> In conjunction with their motion to intervene, Central New York and Gas Company, LLC and eCORP Marketing, LLC jointly submitted a protest, which they subsequently withdrew.

in our 1999 Policy Statement on New Facilities.<sup>9</sup> In this policy statement, we establish criteria for determining whether there is a need for a proposed project, balance the public benefits against potential adverse impacts, and determine whether the proposed project will serve the public interest. Our goal in evaluating proposed projects is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions to the environment, and the unneeded exercise of eminent domain.

12. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the new project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the location of the new facilities. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we evaluate the new project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will we proceed to complete the environmental analysis where other interests are considered.

#### **A. Market Need**

13. Tennessee has submitted two precedent agreements with PSEG, each for a ten-year term. This includes Tennessee's share (approximately 51,500 Dth/d) of the proposed Hebron Storage Field deliverability expansion in Docket No. CP05-352-000 and the full transportation capacity (50,000 Dth/d) that will be created by the proposed ConneXion Project expansion in Docket Nos. CP05-355-000 and -001. National Fuel intends to offer its share of the proposed enhanced Hebron deliverability (approximately 12,400 Dth/d) to existing and new storage customers in an open season pursuant to its tariff. National Fuel is confident that customers' revenues for the new service will exceed National Fuel's portion of cost of service of the deliverability expansion.

14. Tennessee states the precedent agreements with PSEG are contingent on the issuance of all necessary regulatory approvals under terms and conditions satisfactory to

---

<sup>9</sup> *Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement on New Facilities)*, 88 FERC ¶ 61,227 at 61,748 (1999), 90 FERC ¶ 61,128 (clarifying statement of policy), 92 FERC ¶ 61,094 (2000) (clarifying statement of policy).

Tennessee. Tennessee stresses that if it is directed to make changes to the negotiated rate or any significant deviation from the terms of the precedent agreements, it would not be bound to follow through and provide the services described in the agreements.<sup>10</sup>

15. As is our standard practice where an applicant has relied in its application on precedent agreements to demonstrate market demand for its proposed project, we will condition our certificate authorization so that construction cannot commence until after Tennessee executes contracts that reflect the levels and terms of service represented in its precedent agreements.<sup>11</sup> In view of this condition, we find that Tennessee's precedent agreements demonstrate a need for both the proposed enhanced Hebron deliverability project and the proposed ConneXion Project.

16. As discussed below, Tennessee proposes an incremental rate for service using its proposed additional ConneXion Project transportation capacity; Tennessee has demonstrated that revenues from its share of the additional Hebron deliverability capacity will exceed its deliverability expansion costs. National Fuel has not yet held its open season for its share of the additional Hebron deliverability capacity; thus, there is no basis for reaching a predetermination regarding rate treatment for National Fuel's deliverability expansion costs. Therefore, the burden will be on National Fuel if it files under NGA section 4 to seek rolled-in treatment for such costs. In view of these considerations, we find that Tennessee's portion of the proposed Hebron deliverability expansion and the ConneXion Project expansion can proceed without subsidies. There is no opposition to the proposed projects from other pipelines or customers and we find no indication that they might be adversely affected. Therefore, subject to the conditions described herein, we find that the proposed construction of additional facilities is consistent with our Policy Statement on New Facilities and required by the public convenience and necessity.

## **B. Rates and Rate Treatment**

### **1. Docket No. CP05-352-000: Storage Rates**

17. For the increased deliverability that will result from the proposed enhancements to the dehydration tower serving Hebron, Tennessee proposes to charge as a recourse rate the maximum applicable rate, surcharges, and retention percentages set forth under its existing tariff's Rate Schedule FS. Tennessee has used a depreciation rate of two percent

---

<sup>10</sup> Tennessee's Application in Docket No. CP05-355-000 at 13, n. 15 (May 16, 2005).

<sup>11</sup> See, e.g., *Tennessee*, 101 FERC ¶ 61,360, P 21 (2002).

and a pre-tax return of 15.3 percent, consistent with the factors in its last rate case in Docket No. RP95-112. Tennessee applied its Market Area Monthly Deliverability Rate of \$1.15 to the new incremental capacity and annualized the result to achieve annual incremental revenues totaling \$710,700. Tennessee has proposed a rate base of \$227,548 and an annual cost of service of \$40,363.

18. We will approve Tennessee's existing Rate Schedule FS rate as the appropriate recourse rate for the proposed expanded storage deliverability service. Because Tennessee will charge a negotiated rate lower than the recourse rate, if Tennessee files under NGA section 4 to roll in these costs, it will be required to calculate its revenues as if it had charged the recourse rate.<sup>12</sup> We find Tennessee has demonstrated that revenues from its share of the proposed expanded storage deliverability service can be expected to exceed its portion of the cost of service associated with additional delivery capacity. Accordingly, we reach a predetermination that absent significant changes in the relevant facts and circumstances, rolled-in rate treatment for Tennessee's costs associated with the proposed storage deliverability expansion will be appropriate when it files a future NGA section 4 rate case.

**2. Docket Nos. CP05-355-000 and -001:**  
**Incremental Transportation Rates**

19. Earlier this year, we granted Tennessee authorization to replace two 3,500 hp turbines with two 4,721 hp turbines at its Compressor Station 325 near Libertyville, in Sussex County, New Jersey.<sup>13</sup> Tennessee stated the replacement was necessary to comply with air emission standards, and also stated that it intended to incorporate the additional 18,000 Dth/d of capacity created by replacing existing turbines with larger turbines into a future expansion project.<sup>14</sup> Tennessee has incorporated the 18,000 Dth/d of capacity provided by the turbine replacement into the proposed ConneXion Project, and has attributed the costs associated with this capacity to the proposed ConneXion Project's costs.

20. For firm transportation service for PSEG, Tennessee proposes to charge an incremental Rate Schedule FT-A recourse rate of \$14.93 per Dth, the payment of

---

<sup>12</sup> See *Natural Gas Pipeline Company of America*, 111 FERC ¶ 62,236 (2005).

<sup>13</sup> *Tennessee*, 111 FERC ¶ 61,436 (2005).

<sup>14</sup> See Tennessee's Application in Docket No. CP05-42-000 at 8, n. 3 (December 30, 2004).

Tennessee's maximum daily commodity rate, applicable demand and commodity surcharges, and applicable fuel and loss retention. Tennessee has offered, and PSEG has accepted, a negotiated monthly reservation rate of \$12.17 per Dth and a daily commodity rate of \$0.00 per Dth for a ten-year term. Tennessee calculates an incremental cost of service of \$8,957,440, using a five percent depreciation rate for the transportation facilities, excluding the facilities at Compressor Stations 317 and 325. For Stations 317 and 325, Tennessee uses its general system depreciation rate of 1.62 percent, and for the other cost of service items Tennessee uses the factors from the settlement of its last rate case in Docket No. RP95-112.

21. Tennessee estimates the total cost to modify Compressor Stations 317 and 325 will be \$9,233,000, and proposes to allocate \$7,968,000 of these plant costs to Station 317 based on the incremental 7,070 hp used to serve PSEG.<sup>15</sup> Because 52.8 percent of the horsepower at Station 317 is incremental, Tennessee allocates 52.8 percent of the capital costs to the proposed expansion project to ensure existing customers will not subsidize the expansion. This allocation is based on the additional horsepower used from Station 325 to provide expansion services. Because approximately 25.9 percent of the horsepower is incremental, Tennessee allocates 25.9 percent of the capital costs to the proposed ConneXion Project so that existing customers will not subsidize expansion services.

22. Tennessee estimates that the total cost for the six mile loop and upgrades to Station 313 and the Ramsey Meter Station will be \$26,353,000. The allocated transportation capital cost of the proposed ConneXion Project will be \$35,586,000 – \$26,353,000 for the pipe and \$9,233,000 for modifying compression facilities.

23. Tennessee proposes to charge an incremental rate for service using the pipeline capacity created by the proposed ConneXion Project. Thus, there are no issues regarding subsidization or rolled-in treatment for the costs of this expansion of pipeline capacity. Based on its anticipated expansion costs, Tennessee calculates an incremental annual cost of service of \$8,499,000, together with \$458,440 attributable to 8,000 Dth of existing mainline capacity held in reserve for this project, for a total cost of service of \$8,957,440. Tennessee's amended Exhibit N<sup>16</sup> reflects this estimated cost of service of \$8,957,440 compared to the estimated project revenues of \$7,302,000.

---

<sup>15</sup> Total horsepower at Station 317 after the uprate is 13,400 hp.

<sup>16</sup> Tennessee clarified and modified its Exhibit N cost estimates in submissions on September 21 and September 23, 2005. *See* note 1.



**C. Tennessee's Service Agreements**

24. Tennessee submitted precedent agreements for both the proposed ConneXion Project transportation service and Hebron storage service which differ from Tennessee's pro forma FT-A Transportation Agreement and FS Storage Agreement. Tennessee states that these changes do not constitute significant deviations. The changes are as follows.

25. With respect to the precedent agreement for ConneXion transportation service:

(1) the agreement contains "whereas" clauses, stating that Tennessee will make a filing with the Commission relating to the proposed ConneXion Project and request authorization to render firm transportation and to construct the necessary facilities to provide such service;

(2) article II provides that service will not commence until after Tennessee has received the requisite authorizations to provide such service and has constructed the project facilities;

(3) sections 2.1, 6.1, 9.1, 11.1, and 12.1 have been modified to reflect the commencement date and/or need for acceptable authorizations; and

(4) section 15.5 states that the service agreement supercedes and cancels the precedent agreement except as specified in the precedent agreement.

26. With respect to the precedent agreement for Hebron storage service:

(1) the agreement contains "whereas" clauses stating that Tennessee owns and operates the Hebron Storage Field, and further states that Tennessee initiated an open season in connection with the proposed ConneXion Project, the customer currently contracts storage service from Tennessee, the customer participated in the ConneXion open season, and the customer acknowledges that parties will be required to amend the existing gas storage contracts;

(2) article I provides that service will not commence until after Tennessee has received the requisite authorizations to provide such service and has constructed the project facilities;

(3) article V has been modified to reflect the commencement date and/or need for acceptable authorizations; and

(4) article IX has been modified to state that the storage agreement will supercede and cancel the precedent agreement, except as specified in the precedent agreement.

27. We find the changes reflected in the precedent agreements are significant deviations from the pro forma agreements found in Tennessee's tariff. However, if the Commission determines that significant deviations do not constitute a substantial risk of undue discrimination, the Commission may permit the deviations. We do so in this case. Therefore, we accept the precedent agreements subject to Tennessee making the requisite tariff filings after the service agreements are executed and prior to commencement of service.

**D. Impacts on Landowners**

28. In Docket No. CP05-352-000, the proposed modifications to the dehydration unit proposed will take place entirely within Tennessee's compressor yard station. Similarly, in Docket Nos. CP05-355-000 and -001, the proposed modifications to compression facilities at Station 313 will take place within station boundaries while the uprating at Station 317 will be accomplished by modifying software. Tennessee's proposed loops of its existing Line 300 lie within an established utility corridor, but will nonetheless require obtaining additional rights of way. In view of this, we concur with Tennessee's assessment that, provided Tennessee adheres to the environmental mitigation measures specified herein, the applicants' proposals will have a limited impact on landowners and the environment.

**E. Engineering**

29. We conclude that Tennessee's proposed facilities, in conjunction with capacity created by the turbine replacement at Compressor Station 325 approved in Docket No. CP05-42-000 and with 8,000 Dth of existing capacity, will enable Tennessee to provide up to 50,000 Dth per day of firm transportation service between the Hebron Storage Field and the Ramsey Delivery point for PSEG. Further, we find that the proposed modifications to the dehydration tower serving the Hebron Storage Field will enable Tennessee and National Fuel to increase deliverability capacity by approximately 63,900 Dth/d.

**F. Environmental**

30. On June 3, 2005, we issued a Notice of Intent (NOI) to prepare a single Environmental Assessment (EA) for the facilities and services proposed in Docket Nos. CP05-352-000, CP05-355-000, and CP05-355-001.<sup>17</sup> On October 7, 2005, we issued a

---

<sup>17</sup> 70 FR 31,438 (June 1, 2005).

notice of availability of the EA.<sup>18</sup> The EA addresses water resources, vegetation and wildlife, cultural resources, geology, soils, land use, air quality and noise, safety, polychlorinated biphenyls, and alternatives to the proposal.

31. One comment was received in response to the EA, a letter from Mr. Kenneth Skov. Mr. Skov notes that his cabin, located at Station Number 49+33, is now 49 feet north of Tennessee's existing Line 300-1; if the proposed loop line is laid on the north side of the existing line, as Tennessee intends, the new line will lie approximately 24 feet from his cabin. Mr. Skov recommends that instead of placing the proposed pipeline on the north side of Tennessee's existing pipeline, it be placed on the opposite side, so as not to encroach on his cabin. In a November 14, 2005 data response, Tennessee explained that moving the loop line to the south side of the existing line would adversely impact two ponds, forested land, and wetlands. Tennessee has agreed to reduce the proposed offset from its existing line to 20 feet for about 200 feet along the portion of the route near Mr. Skov's cabin, soil conditions permitting, and the parties are negotiating a resolution of this matter. In addition, Tennessee is negotiating with another landowner at Station Number 115+51, where a barn is less than 50 feet from the proposed construction work area. To ensure resolution of these landowners' concerns, we will require Tennessee to file its site-specific construction plans for the placement of its loop line at these two locations for review and approval by the Director of the Office of Energy Projects.<sup>19</sup>

32. In its October 7, 2005 filing, Tennessee identified four new wetland areas not previously noted or discussed in the EA for the Bradford County Loop. Three of these wetlands are adjacent to an existing access road at Compressor Station 317, but will not be impacted by construction or operation. One additional wetland will be crossed by a temporary access road in the same area, but will be returned to pre-construction condition. Three new wetlands and a temporary access road were also identified by Tennessee on the Susquehanna County Loop. Two of these wetlands are crossed by existing temporary access roads, roads which may require improvements because they lack culverts where they traverse the wetlands. The other wetland is located adjacent to an existing permanent access road and will be temporarily disturbed by construction. We have examined the additional impacted wetland resources and determined there will be no adverse impacts from the construction and operation of the proposed facilities.

---

<sup>18</sup> 70 FR 60,327 (October 17, 2005).

<sup>19</sup> See Environmental Condition Number 12 in the appendix to this order.

33. In its October 7, 2005 Filing, Tennessee states it intends to expand its new compressor building size from 40 feet by 60 feet to 60 feet by 60 feet at Station 313. As this will occur within the existing compressor station boundaries, we find it will not cause any additional environmental impacts.

34. In a letter dated November 28, 2005, the US Fish and Wildlife Service (Fish and Wildlife) stated that the revised project area is in the range of the endangered Indiana bat. Because the revised portion consists of road construction and access roads that would have few impacts on forest habitat, Fish and Wildlife has concluded that the project as proposed is not likely to adversely affect the Indiana bat. We concur with this determination.

35. In the EA, in Environmental Condition Number 11, we required that Tennessee defer construction and the use of facilities and of staging, storage, and temporary work areas, and new or to-be-improved access roads in Pennsylvania until (1) Tennessee provides a survey report for areas that were not surveyed due to frozen ground and (2) the Pennsylvania State Historic Preservation Office (SHPO) provides comments on the report. In its October 7, 2005 filing, Tennessee submitted the survey report and the SHPO comments. No cultural resources were identified, and the SHPO agreed with the recommendations in the report. We have reviewed the report and concur with the SHPO. Thus, the requirements of Environmental Condition Number 11 of the EA have been met.

36. Based on the discussion in the EA, we conclude that if constructed in accordance with Tennessee's and National Fuel's applications, as supplemented, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

37. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>20</sup>

---

<sup>20</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

#### **IV. Summary**

38. For the reasons discussed above, we find (1) the benefits of the proposed Hebron deliverability expansion and ConneXion Project expansion will outweigh any potential adverse effects, consistent with our policy statements on new facilities and is required by the public convenience and necessity, and (2) absent a significant change in circumstances, the costs associated with Tennessee's portion of the Hebron storage expansion in Docket No. CP05-352-000 will qualify for rolled-in rate treatment when the applicants make a future NGA section 4 rate filing.

39. The Commission, on its own motion, received and made a part of the record all evidence, including the application, as amended and supplemented, and exhibits thereto, submitted in this proceeding. Upon consideration of this record,

#### **The Commission orders:**

(A) In Docket No. CP05-352-000, a certificate of public convenience and necessity is issued to Tennessee and National Fuel under NGA section 7(c), authorizing modifications to a dehydration tower to increase deliverability from the Hebron Storage Field approximately 438,000 Dth/d to 502,000 Dth/d, as described and conditioned herein and in the application.

(B) In Docket Nos. CP05-355-000 and CP05-355-001, a certificate of public convenience and necessity is issued to Tennessee under NGA section 7(c), authorizing the construction and operation of natural gas facilities, as described and conditioned herein and in the application as amended.

(C) The authorizations issued in Ordering Paragraphs (A) and (B) are conditioned on Tennessee and National Fuel:

(1) constructing and making available for service the facilities described herein, pursuant to paragraph (b) of section 157.20 of the Commission's regulations, within two years of the issuance of this order;

(2) compliance with all regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;

(3) executing contracts for the levels and terms of service represented in the precedent agreements with Public Service Electric and Gas Company, and;

(4) notifying the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Tennessee or National Fuel. Tennessee or National Fuel shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(D) In Docket No. CP05-352-000, Tennessee may roll its share of the costs of the proposed Hebron storage deliverability expansion into its systemwide costs of service in a future NGA section 4 rate proceeding, provided there are no significant changes in relevant facts and circumstances.

(E) The motions to intervene out-of-time are granted.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

## APPENDIX

Tennessee Gas Pipeline Company and National Fuel Supply Corporation in  
Docket No. CP05-352-000  
and  
Tennessee Gas Pipeline Company in Docket Nos. CP05-355-000 and -001  
Environmental Conditions

As recommended in the Environmental Assessment (EA), this authorization includes the following conditions:

1. Tennessee Gas Pipeline Company (Tennessee) and National Fuel Gas Supply Corporation (National Fuel) shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by this order. Tennessee or National Fuel must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
  - b. justify each modification relative to site-specific conditions; and
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegated authority to take all steps necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall include:
  - a. stop work authority and authority to cease operation and
  - b. the design and implementation of any additional measures deemed necessary to assure continued compliance with the intent of the conditions of this order.
3. **Prior to any construction**, Tennessee shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.

4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Tennessee shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this order. All requests for modifications of environmental conditions of this order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Tennessee's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to this order must be consistent with these authorized facilities and locations. Tennessee's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Tennessee shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area**.

This requirement does not apply to route variations required herein or extra workspace allowed by the *Upland Erosion Control, Revegetation, and Maintenance Plan*, minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
- b. implementation of endangered, threatened, or special concern species mitigation measures;



- c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **At least 60 days before construction begins**, Tennessee shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Tennessee will implement the mitigation measures required by this order. Tennessee must file revisions to the plan as schedules change. The plan shall identify:
- a. how Tennessee will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - b. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
  - d. the training and instructions Tennessee will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
  - e. the company personnel (if known) and specific portion of Tennessee's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) Tennessee will follow if noncompliance occurs; and
  - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the mitigation training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
7. Tennessee shall employ at least one environmental inspector per construction spread. The environmental inspector shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by this order and other grants, permits, certificates, or other authorizing documents;

- b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of this order, and any other authorizing document;
  - d. a full-time position, separate from all other activity inspectors;
  - e. responsible for documenting compliance with the environmental conditions of this order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
  - f. responsible for maintaining status reports.
8. Tennessee shall file updated status reports prepared by the head environmental inspector with the Secretary on a **biweekly** basis **until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. the current construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
  - c. a description of corrective actions implemented in response to all instances of noncompliance, and their cost;
  - d. a description of the effectiveness of all corrective actions implemented;
  - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this order, and the measures taken to satisfy their concerns; and
  - f. copies of any correspondence received by Tennessee from other federal, state or local permitting agencies concerning instances of noncompliance, and Tennessee's response.
9. Tennessee must receive written authorization from the Director of OEP **before commencing service** from each phase of the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas of project related disturbance are proceeding satisfactorily.

10. **Within 30 days of placing the certificated facilities in service**, Tennessee shall file an affirmative statement with the Secretary, certified by a senior company official:
  - a. that the facilities have been constructed/installed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the certificate conditions Tennessee has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. Tennessee shall file a noise survey with the Secretary **no later than 60 days** after placing the units at Compressor Station 313 and Compressor Station 317 in service. If the noise attributable to the operation of all of the authorized units at the stations at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby noise sensitive area, Tennessee shall file a report on what changes are needed and should install the additional noise controls to meet the level **within 1 year** of the in-service date. Tennessee shall confirm compliance with the above requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.
12. **Before construction**, Tennessee shall file for review and written approval of the Director of OEP, its final site-specific construction plans for the placement of the pipeline near the structures located at Station Numbers 49+33 and 115+51. These plans should include any well locations if they are located in the work areas.